

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CORNELIUS LISTER
1125 Coates Street
Sharon Hill, PA 19079

Plaintiff(s)

vs.

FITNESS INTERNATIONAL, LLC, d/b/a LA
FITNESS
Drexel Building, 1st Floor
15th & Walnut Streets
Philadelphia, PA 19103

Defendant(s)

: **CIVIL CASE NO.**

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**NOTICE OF REMOVAL
AND JURY DEMAND**

**TO: THE CLERK AND THE HONORABLE JUDGES OF THE UNITED
STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

Defendant, Fitness International, LLC (d/b/a "LA Fitness") hereby files the Notice of Removal of the above-captioned action to the United States District Court for the Eastern District of Pennsylvania, from the Court of Common Pleas, Philadelphia County, Pennsylvania, where the action is now pending, as provided by Title 28, United States Code, Section 1441, and hereby states the following:

1. Plaintiff, Cornelius Lister, commenced this action on May 9, 2013, by filing a Complaint in the Court of Common Pleas of Philadelphia County, Pennsylvania, captioned Cornelius Lister v. Fitness International, LLC, d/b/a LA Fitness, bearing docket number May Term 2013, No. 000601 ("the State

Court Action”). The State Court Action is now pending in that Court. (A copy of the State Court Action Complaint is attached as Exhibit "A.")

2. Plaintiff served counsel for Defendant Fitness International, LLC, formerly known as “LA Fitness International, LLC” (hereinafter “LA Fitness”) by serving Defendant LA Fitness with the Complaint via personal service upon agent or person in charge at one of Defendant’s locations, with an address of 1435 Walnut Street, Philadelphia, PA 19102. (A copy of said affidavit of service is attached as Exhibit "B.") This Notice of Removal is filed within 30 days of the date of service of the Complaint, as required by 28 U.S.C. §1446(b).

3. The State Court action is between citizens of different states and is a civil action over which the District Courts of the United States have original jurisdiction by virtue of diversity jurisdiction granted by 28 U.S.C. §1332.

4. Specifically, Plaintiff is a citizen of the Commonwealth of Pennsylvania.

5. Defendant Fitness International, LLC, d/b/a LA Fitness is a California Limited Liability Company, with its principal place of business in the State of California.

6. Prior to June 7, 2012, Fitness International, LLC was known as “LA Fitness International, LLC,” which was also a California Limited Liability Company. On June 7, 2012, LA Fitness International, LLC changed its name to Fitness International, LLC.

7. Other than the name change, the Defendant Fitness International, LLC remains the same entity as “LA Fitness International, LLC” and operates in the same manner as it did on the date of the alleged incident – September 5, 2012.

8. None of the members of the Limited Liability Company known as “Fitness International, LLC” (or “LA Fitness International, LLC”) are citizens of the Commonwealth of Pennsylvania.

9. Upon information and belief, the matter in controversy claimed by the Plaintiff exceeds the sum of \$75,000.00, exclusive of interest and costs, computed on the following basis:

- (a) Plaintiff’s Complaint alleges that on or about September 5, 2012, Plaintiff sustained injuries while playing a basketball game at Defendant’s premises when six (6) unnamed males who were also playing in the game “assaulted, battered, punched, and kicked” the Plaintiff, causing serious injuries to the Plaintiff.
- (b) Plaintiff alleges that as a result of the incident, he sustained serious bodily injuries to the head, body, and extremities, some or all of which may be permanent.
- (c) Plaintiff alleges that these injuries include, but are not limited to, lacerations of the lower lip and chin, headaches, pain and looseness of the teeth, scarring, and severe shock to the nerves and nervous system, all of which may be permanent in nature.
- (d) Furthermore, Plaintiff alleges that as a result of the incident, Plaintiff has required medical attention and care, and has incurred medical expense and will continue to incur medical expenses all to the Plaintiff’s great financial damage and loss.
- (e) Plaintiff’s “Wherefore” clause alleges damages in excess of \$50,000.00, which is the Arbitration limit under the

Pennsylvania Rules of Civil Procedure and Philadelphia County local rules. Therefore, the matter is placed in the major case track under Philadelphia County Local Rules.

10. This Notice of Removal is being filed in the United States District Court for the Eastern District of Pennsylvania, the District Court of the United States for the district within which the State Court action is pending, as required by 28 U.S.C. §1441(b) and §1446(a).

11. Upon filing the Notice of Removal, Defendant LA Fitness shall give written notice thereof to Plaintiff's counsel, Bernard M. Gross, Esquire, and shall file copies of this Notice of Removal with the Prothonotary for the Court of Common Pleas of Philadelphia County, Pennsylvania, pursuant to 28 U.S.C. §1446(d).

12. By filing this Notice of Removal, Defendant Fitness International, LLC d/b/a LA Fitness does not waive any defenses available to it at law, in equity or otherwise.

WHEREFORE, Defendant, Fitness International, LLC (d/b/a "LA Fitness"), respectfully requests that the action proceed in this Court as an action properly removed to it.

Respectfully submitted,

BRIGGS LAW OFFICE, LLC

Date: May 30, 2013

By: 

NORMAN W. BRIGGS, ESQUIRE
400 Market Street, Suite 730
Philadelphia, PA 19106
(215) 925-4632
Attorneys for Defendant, Fitness
International, LLC (d/b/a "LA Fitness")
e-mail: nbriggs@thebriggslaw.com

EXHIBIT A

LAW OFFICES
BERNARD M. GROSS, P.C.
100 Penn Square East
Suite 450, The Wanamaker Bldg.
Philadelphia, PA 19107
Phone: 215-561-3600/Fax: 215-561-3000

**Assessment of damages
hearing is/XXXXXX
required**

Filed and Attested by
PROTHONOTARY
05 MAY 2013 12:17 pm
J. OSTROSKI

JURY TRIAL DEMAND

CORNELIUS LISTER
1125 Coates Street
Sharon Hill, PA 19079

v.

FITNESS INTERNATIONAL, LLC
d/b/a LA FITNESS
Drexel Building, 1st Floor
15th & Walnut Streets
Philadelphia, PA 19103

: COURT OF COMMON PLEAS
: PHILADELPHIA COUNTY

TERM, 2013

NO.

I.D. NO. 02571

CIVIL ACTION

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL and INFORMATION SERVICE
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias, de plazo al partir de la fecha de la demanda y la notification. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAMA POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENDIADOS DE FILADELFIA
SERVICIO DE REFENCIA E INFORMACION LEGAL
One Reading Center
Filadelfia, Pennsylvania 19017
Telefono: (215) 238-6333

COMPLAINT

1. Plaintiff, Cornelius Lister, is an individual residing at the aforementioned address.

2. Defendant, Fitness International, LLC, doing business as LA Fitness, is authorized and duly licensed to do business in the Commonwealth of Pennsylvania, with an office located at the Drexel Building, 1st Floor, 15th & Walnut Streets, Philadelphia, Pennsylvania 19154.

3. At all times material hereto, the defendant, Fitness International, LLC, doing business as LA Fitness, was in the business of operating a sports club located at 701 Cathedral Road, Philadelphia, Pennsylvania.

4. At all times material hereto, the defendant was in control and possession of the sports club, including the basketball court, located at 701 Cathedral Road in Philadelphia, and it was the duty of the defendant to keep and maintain the premises in a reasonably safe condition for its lawful business invitees.

5. At all times material hereto, the defendant acted by and through its employees, agents, servants, workmen, and representatives, acting within the scope and course of their relationship to the defendant.

6. On September 5, 2012, plaintiff Cornelius Lister, a member of the LA Fitness sports club, entered the sports club at 701 Cathedral Road in Philadelphia and was a lawful business invitee of the defendant.

7. On September 5, 2012, at about 8:30 PM, while plaintiff was playing in a basketball game in the sports club, about six males who were also playing in the game assaulted, battered, punched, and kicked the plaintiff, without provocation, causing serious injuries to the plaintiff referred to below.

8. The assault and battery on the plaintiff was the direct and proximate result of the carelessness, negligence, and recklessness of the defendant as follows:

(a) Failing to keep the premises in a safe condition for the use of lawful patrons and business invitees;

(b) Failing to provide adequate security and protection for business invitees on the premises of the defendant;

(c) Failing to properly monitor the sports club, including the basketball court, to ensure proper protection of lawful patrons and business invitees of the defendant;

(d) Failing to properly monitor the sports club, including the basketball court, in order to aid lawful patrons who have been accosted by assailants;

(e) Failing to perform proper and adequate camera surveillance of the sports club, including the basketball court;

(f) Failing to provide security personnel to properly and adequately inspect, patrol, and safeguard the sports club, including the basketball court;

(g) Failing to hire, employ, or retain personnel sufficiently qualified to supervise the safety of the premises;

(h) Failing to oversee and/or supervise existing security measures to ensure that such measures were being properly performed;

(i) Failing to improve existing security measures that it knew or in the exercise of reasonable care should have known were inadequate, ineffective, and/or inefficiently performed or executed;

(j) Failing to give adequate warning to enable business visitors or invitees to avoid harm or otherwise protect themselves against such harm;

(k) Failing to become apprised of criminal acts that occurred on or near the defendant's premises and to take reasonable preventive action in connection therewith;

(l) Exposing plaintiff to a foreseeable and unreasonable risk of harm or bodily assault;

(m) Creating a foreseeable and unreasonable risk of criminal assault and injury;

(n) Violation of the pertinent statutes, ordinances, regulations, and standards;

(o) Otherwise failing to exercise due care under the circumstances.

(p) Such other negligence as may be revealed through discovery.

9. By reason of the above described occurrence, plaintiff sustained serious bodily injuries to the head, body and extremities, some or all of which are or may be permanent including, but not limited to, lacerations of the lower lip and chin, headaches, pain and looseness of the teeth, scarring, and a severe shock to the nerves and nervous system, as a result of which plaintiff has suffered, still suffers and will continue to suffer for an indefinite time in the future, and which have prevented plaintiff from attending to plaintiff's daily duties and occupation, all to plaintiff's great financial damage and loss.

10. As a result of the injuries hereinabove described, plaintiff was and will continue to be obliged to expend various sums of money for medicine and medical treatment in and about endeavoring to treat plaintiff of said injuries, all to plaintiff's great financial damage and loss.

WHEREFORE, plaintiff Cornelius List demands judgment against defendant in a sum in excess of Fifty Thousand Dollars (\$50,000.00). The amount sued upon is in excess of that requiring submission to arbitration.

**LAW OFFICES
BERNARD M. GROSS, P.C.
BY:**

A handwritten signature in black ink, appearing to read 'Bernard M. Gross', is written over a horizontal line.

BERNARD M. GROSS
Attorney I.D. No. 02571
100 Penn Square East
Suite 450, The Wanamaker Building
Philadelphia, PA 19107
Phone: (215) 561-3600
Fax: (215) 561-3000

Attorney for Plaintiff

VERIFICATION

CORNELIUS LISTER, being duly sworn according to law, deposes and says that the facts set forth in the foregoing material are true and correct to the best of his knowledge, information and belief.

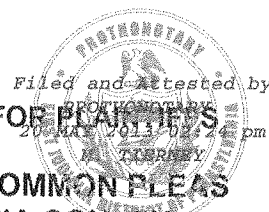
This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

(CL) 
CORNELIUS LISTER

EXHIBIT B

LAW OFFICES BERNARD M. GROSS, P.C.
 BY: BERNARD M. GROSS, ESQUIRE
 100 Penn Square East
 Suite 450, The Wanamaker Building
 Philadelphia, PA 19107
 215- 561-3600/Fax: 215-561-3000
 ID #02571

ATTORNEY FOR PLAINTIFFS
 COURT OF COMMON PLEAS
 PHILADELPHIA COUNTY



CORNELIUS LISTER
 1125 Coates Street
 Sharon Hill, PA 19079

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MAY TERM, 2013

v.
 FITNESS INTERNATIONAL, LLC
 d/b/a LA FITNESS
 Drexel Building, 1st Floor
 15th & Walnut Streets
 Philadelphia, PA 19103

NO. 0601

AFFIDAVIT OF SERVICE OF CIVIL ACTION COMPLAINT

Served and made known to Defendant, **FITNESS INTERNATIONAL, LLC d/b/a LA**

FITNESS, on the 17th day of May, 2013, at 1:30 o'clock, PM, at
15th & WALNUT STS, County of Philadelphia, Commonwealth of

Pennsylvania, in the manner described below:

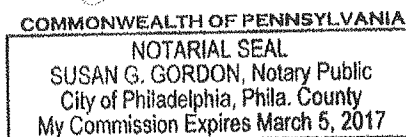
- () Defendant personally served.
- () Adult family member with whom said Defendant resides. Relationship is
- () Adult in charge of Defendant's residence who refused to give name or relationship.
- (P) Agent or person in charge of Defendant's office or usual place of business. W/F, med 2013
- () An officer of said Defendant company.
- () Other

SWORN TO AND SUBSCRIBED

Before me this 20th day
 of May, 2013.

Bernard M. Gross
 Notary Public

[Signature]



APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CORNELIUS LISTER

V.

FITNESS INTERNATIONAL, LLC,

d/b/a LA FITNESS

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:

Civil Action

No: _____

DISCLOSURE STATEMENT FORM

Please check one box:

☒ The nongovernmental corporate party, Fitness International, LLC
, in the above listed civil action does not have any parent corporation and
publicly held corporation that owns 10% or more of its stock.

☐ The nongovernmental corporate party, _____
, in the above listed civil action has the following parent corporation(s) and
publicly held corporation(s) that owns 10% or more of its stock:

May 29, 2013

Date



Signature

Norman W. Briggs, Esquire

Counsel for: Defendant, Fitness International, LLC

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file
two copies of a disclosure statement that:

(1) identifies any parent corporation and any publicly held corporation
owning 10% or more of its stock; or

(2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

(1) file the disclosure statement with its first appearance, pleading,
petition, motion, response, or other request addressed to the court;
and

(2) promptly file a supplemental statement if any required information
changes.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Cornelius Lister, 1125 Coates Street, Sharon Hill, PA 19079

Address of Defendant: Fitness International, LLC, 3161 Michelson Blvd, Suite 600, Irvine, CA 92612

Place of Accident, Incident or Transaction: LA Fitness Health Club, Drexel Building, 1st Floor, 15th & Walnut Streets, Philadelphia PA 19103
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☒ All other Diversity Cases

(Please specify) _____

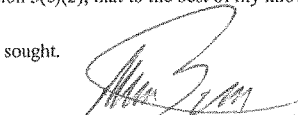
ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Norman W. Briggs, counsel of record do hereby certify: _____ does not

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case ~~exceed~~ the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.



Norman W. Briggs

60940

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: May 30, 2013



Attorney-at-Law

Norman W. Briggs

60940

Attorney I.D.#

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Cornelius Lister, 1125 Coates Street
Sharon Hill, PA 19079

(b) County of Residence of First Listed Plaintiff **PHILADELPHIA COUNTY**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Bernard M. Gross, Esquire, Wanamaker Bldg, 100 Penn
Square East, Ste 450, Phila PA 19107/Ph: 215-561-3600

DEFENDANTS

L.A. FITNESS INTERNATIONAL, LLC and
FITNESS INTERNATIONAL, LLC

County of Residence of First Listed Defendant **Orange County**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Norman W. Briggs, Esquire, Briggs Law Office, LLC, 400 Market
Street, Suite 730, Philadelphia, PA 19106, 215-925-4632

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title 28, United States Code, Section 1441

Brief description of cause:

Court action is between citizens of different states, USDC has original jurisdiction by virtue of diversity

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 29, 2013

SIGNATURE OF ATTORNEY OF RECORD

Norman W. Briggs, Esquire

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

CORNELIUS LISTER

v.

FITNESS INTERNATIONAL, LLC, d/b/a LA FITNESS

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CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

May 29, 2013

Date

215-925-4632

Telephone

NORMAN W. BRIGGS

Attorney-at-law

215-925-1611

FAX Number


Attorney for Defendants Fitness
 International, LLC
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Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.